

Notice of Allowability

Application No.

10/731,158

Examiner

Brian J. Davis

Applicant(s)

GERLACH ET AL.

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1621

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to applicant's amendment (9/6/05).
2. ☒ The allowed claim(s) is/are 1-6,9-13,15 [renumbered 1-12].
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☒ All b) ☐ Some* c) ☐ None of the:
 1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

DETAILED ACTION

Specification

The objection to the specification, outlined in the previous Office Action, has been overcome by applicant's amendment. The amendment supplies the Brief Description of the Drawing.

Drawings

The objection to the drawing, outlined in the previous Office Action, has been overcome by applicant's amendment. The amendment supplies a corrected drawing.

112 Rejections Withdrawn

The rejection of claims 1-12 under 35 USC 112, first paragraph, outlined in the previous Office Action, has been overcome by applicant's amendment. With respect to claims 7 and 8, the amendment cancels these claims. With respect to the remaining claims, applicant's arguments and the amendment have been carefully considered. (Applicant has narrowed the independent claim such that the particular composition of the catalyst is explicitly taught.) The examiner is in agreement with applicant that the rejection is now untenable.

The rejection of claims 9 and 13 under 35 USC 112, second paragraph, outlined in the previous Office Action, has been overcome by applicant's amendment. With respect to claim 9, the independent claim (claim 1) has been amended such that the

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rejection is now moot. With respect to claim 13, the claim has been clarified as appropriate.

102 Rejections Withdrawn

The rejection of claims 1-13 under 35 USC 102(b), outlined in the previous Office Action, has been overcome by applicant's amendment. With respect to claims 7 and 8, the amendment cancels the claims. With respect to the remaining claims, applicant's arguments and the amendment have been carefully considered. Applicant has narrowed the independent claim with respect to the catalyst such that it now longer reads on the cited prior art.

Allowable Subject Matter

Claims 1-6, 9-13 and 15 are allowed. The following is an examiner's statement of reasons for allowance:

The key to the instant invention, as stated in the previous Office Action, is the precipitation onto monoclinic, tetragonal or cubic zirconium dioxide of the catalytically active components. The closest prior art remains US 6,111,141, prior art of record. Applicant has further narrowed the independent claim such that the exact nature of the catalyst composition used in the reaction is explicitly taught. As applicant correctly points out in the response accompanying the amendment, such a catalytic composition cannot be said to be either taught or suggested by US 6,11,141. Nor would it have been obvious to one of ordinary skill in the art at the time of invention to modify the

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supported catalysts of the prior art in order to arrive at those of the instant invention.

There is no motivation to do so.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian J. Davis whose telephone number is 571-272-0638. The examiner can normally be reached on 8:30-5:00.

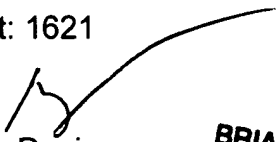
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Johann Richter can be reached on 571-272-0646. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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Brian J. Davis
October 28, 2005

BRIAN DAVIS
PRIMARY EXAMINER